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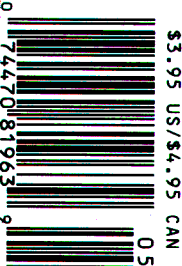
OVER HERE, OVER THERE, OVERSIGHT

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Virginia's JLARC: A Standard of Excellence

The Virginia joint audit commission is one of the oldest and most successful legislative oversight groups in the nation.

Dianna Gordon

The phrase “reinventing government” is so popular in certain circles right now that it risks becoming a cliché. Almost everyone has ideas on how to do it, but there haven’t been a lot of practical applications to date.

If the phrase means making government truly a lean, mean, better-run machine—there are a few groups that have been reinventing state government for the last two decades. Among them is the Joint Legislative Audit and Review Commission (JLARC) of the Virginia General Assembly.

The commission celebrated its 20th anniversary last year, and during those years it has made some impressive gains in the battle for more efficient, more effective and more economical government. The ratio of savings for every dollar invested in JLARC has been conservatively estimated at 12 to 1. Over its 20 years and the 150 evaluations made at the behest of the legislature, JLARC has made more than 1,000 recommendations resulting in extensive changes to the Code of Virginia. Among JLARC’s accomplishments:

- The commission’s first evaluation, a study of the Virginia community college system, pinpointed the need for more attention to day-to-day management in academic and administrative areas.
- A 1977 study of sunset legislation and zero-based budgeting then popular across the country led to creation of the Legislative Program Review and Evaluation Act providing for periodic review of programs in all areas of state government.

- A 1980 special study led JLARC to recommend that the legislature create a set-off debt collection program, implemented in 1981, that allows the state to withhold refunds to delinquent taxpayers or anyone owing the state money for licenses, fees or other debts. As of 1992, it had netted the state over \$75 million in savings.

- A two-year study of the corrections system resulted in recommendations for improving population forecasting, staffing, facility use, community diversion, security procedures and capital outlay planning.

- Substantial changes in regulations by the legislative and executive branches ensued after a JLARC study of day care.

- A major study of the Medicaid program led to legislation that restricts some forms of asset transfer and implements an estate recovery program. The results are an estimated \$15 million in annual savings.

One of the accomplishments on which JLARC Executive Director Phil Leone looks with the most pride is the commission’s recommendation based on a study led by Kirk Jonas, deputy director, for a state rainy day fund that was approved by the voters as a constitutional amendment.

Major issues that have challenged the commission over the years have included rewriting highway allocation and school equalization funding formulas. In tribute to the strong legislative support of JLARC, the commission was chosen to study and make policy recommendations on those two issues, which ultimately affect almost every legislator’s district.

Delegate Ford Quillen, who retired this year as chairman of JLARC and from the legislature after 24 years in the House, points out, “In transportation and education funding, there are basically winners and losers. When you restructure the funding formula, some districts are cut and some receive more. JLARC was asked to study and make policy recommendations on those issues because legislators recognized it as credible and unbiased. We knew that if JLARC did the study, legislators would vote to carry out the recommendations whether their district benefitted or not.”

How does an oversight group gain that kind of reputation? How can it serve as a powerful model in the quest for reinventing government?

State government expert Alan Rosenthal of the Eagleton Institute, Rutgers, says that good staff, good leadership and legislative commitment equal good oversight.

“The easiest condition is good staff,” he adds. “Good staff leadership is tougher. And good legislators on the commission is the toughest.”

“And what has made JLARC so successful,” Rosenthal continues, “is that it has had the three C’s of good oversight—commitment, continuity and clout.”

Leaders’ Commitment

The major factor in Rosenthal’s equation for good oversight—legislative commitment—has been crucial to JLARC’s success.

Initially, JLARC was established because legislators, who were in session only a quarter of the year, felt they were at the mercy of an executive branch and its agencies that operated year-round. “I think legislative branches all over the country have learned that oversight is what we have to do if we believe in the separation of powers,” explains longtime JLARC member Hunter Andrews, who is also Senate majority leader and

Dianna Gordon is an assistant editor of *State Legislatures*.

finance committee chairman.

"The legislature has never been the tail of the governor," adds Quillen. "It's always kept independent; it never gave anything up to the executive. And it behooved us to ensure that JLARC was doing a good job so we knew the agencies were doing a good job."

The commission is composed of nine members from the House and five from the Senate. At least five delegates must also serve on the House Appropriations Committee. Two senators must be members of the Senate Finance Committee.

At present, the leadership from both houses of the General Assembly is represented, including the budget committee chairs and the president pro tem of the Senate.

"When we were discussing the beginning of JLARC, we hoped it would be a legislative commission that leaders would aspire to and not just another creature of the legislature," notes Delegate Lacey Putney, who has served on the oversight commission since its inception. Those hopes have been fulfilled. Commission membership is coveted by veteran legislators.

JLARC's first director, Ray Pethtel, made sure there would be no watering down of authority. "The first chairman and I agreed that, if a legislator could not attend, he could send a representative to sit in the audience, but he would not be represented in his decision-making or reporting role." There are no middlemen in JLARC. Leaders actively participate if they want a say in the commission's doings.

And leaders have an almost symbiotic relationship with the commission. "They're not just on the letterhead," Putney points out. "They are workers; they attend meetings; they are active participants of the commission."

The result is JLARC members become well versed in the details of government and are able to ascertain the

Potential Just Waiting to be Discovered

Whether you call it program or performance evaluation, performance auditing or any of several similar terms, oversight isn't anything new: 45 states have it.

Oversight—whether by joint legislative committees, independent commissions, staffers assigned to the job or house and senate standing committees—assesses how well state government agencies are working and whether programs are being carried out the way the legislature intended.

The first states to initiate oversight groups were Hawaii, New York and Connecticut during the '70s decade of disclosure that followed Watergate. Public cynicism about politics, politicians and government in general was being countered by moves to make government more accessible and accountable to the people. At the same time, officials were attempting to stem the first flutterings of the tax revolt. Citizens objected

to the size and cost of state government. Mechanisms for reducing growth and increasing accountability were implemented—including sunset review laws and program evaluation units.

"Most states have established oversight agencies, and such good-government tools have been absorbed into the system," explains state government expert Alan Rosenthal of the Eagleton Institute, Rutgers. "The biggest failure—and I was a major proponent of oversight when it began in the '70s—the major disappointment, is that legislators have never taken hold of it. We've had established agencies and their institutionalization. Few have been abolished. But we haven't had legislators taking on that function in a more serious fashion. Oversight's potential has never been realized because legislators have been too preoccupied with constituent service and a campaign that hardly ever ends."



Senator Hunter Andrew, left, chairman of the Senate Finance Committee and Senate majority leader, has served on JLARC since 1977. Delegate Ford Quillen, last year's commission chairman, recently retired from the Virginia General Assembly. Delegate Robert Ball joined JLARC in 1979 and is chairman of the House Appropriations Committee.

long- and short-term effects of the laws they pass. In exchange for this growth in knowledge and hands-on experience with the nuts and bolts of the law, they provide the legislative clout that keeps good oversight reports from languishing on the shelf, unread. When a JLARC report hits the floor, most members know the leaders are behind it. And if legislation is necessary to fix the prob-

lems discovered in a performance review, JLARC's members can do it.

A bonus for this particular oversight group, however, is its institutional memory. Commission members have been about the business of government for many years. Only 31 legislators have served on JLARC during its entire history. Two of the current members have served since JLARC's inception in 1973; two other members have served 15 years or more. Since oversight also encompasses determining if an agency or program is fulfilling the intent of the law, those members remember ex-

actly what legislators intended when the law was passed and can evaluate the performance accordingly.

Good, Better, Best

While legislators provide the continuity and clout of JLARC, they back an expert staff. Most of the staff members have advanced degrees and approach reviews with an aggressive profession-

Two Decades of Respect

An oversight organization that, like Virginia's JLARC, shares two decades of respect as the legislature's leading watchdog is the PEER Committee of Mississippi.

The Mississippi Legislature formed the Joint Committee on Program Evaluation and Expenditure Review (PEER) in 1973 to address limitations in the state's fiscal audit system and to carry out a recommendation for legislative post audit procedures made in a 1969 Eagleton Institute report.

Executive Director John Turcotte says that it is difficult to place a precise value on the benefits attributable to oversight, but "a significant number of instances of savings, cost avoidance or additional revenue can be associated with actions taken by the Legislature or state agencies that were prompted by PEER's work."

In just one of its 308 reports, PEER found that \$4 million had been spent by the Public Employees' Retirement System for investment managers' fees without authorization through the appropriation process and without disclosure of the expenditure to the Legislature. The watchdog committee also tracked down more than \$850,000 in questionable spending by Mississippi Educational Television. The educational television agency took PEER's report seriously, and is implementing the joint committee's recommendations.

After 20 years in Mississippi government oversight, Turcotte also has learned to walk the razor's edge of politics.

By law, three House and three Senate members on the joint committee

must vote to approve an evaluation. Since, Turcotte says, the two houses are extremely independent—"if you can get three House and three Senate members to agree, the agency has some assurance that this is a serious matter that will be approached objectively. If it were too easy to launch an investigation, the process might appear biased."

"The only way to keep your independence and credibility is to be very aggressive and very objective," he continues. "My philosophy is that if the committee votes for an investigation and if the project is feasible, my job is to get on with it, not to keep the Legislature waiting."

The results of the audit as well as recommendations to improve the program or agency are important in establishing credibility. "Don't mince words," Turcotte advises, "and use graphics to make findings clear. Use the most powerful research methodology, but don't confuse or overload the reader. We write our reports so there's no doubt what the problem is, the causes, the effects and recommendations to correct the problem. If you stay consistently aggressive and stay close to the legislative institution, you survive."

"There's a lot of talk now about reinventing government through large-scale, one-time performance reviews," Turcotte observes. "And it's good that people are starting to re-examine public administration. But groups like JLARC and PEER—we've been trying to reinvent government for two decades."

alism. But the director's leadership of those experienced analysts has been a prime ingredient of JLARC's success.

"The CPA-type, green eyeshade auditors are not responsive enough to maintain legislative interest in oversight," Rosenthal says. "It becomes too irrelevant. A good director markets his agency's wares. That's part of the genius of JLARC. The idea is that they respond to whatever the legislature hands them. They don't say, 'We don't do policy,' when the legislature hands

them a policy issue. And they maintain their integrity, their objectivity."

Above the Political Fray

The fact that in its 20-year history JLARC has been kept above the political fray is another important link in its success as an objective oversight commission.

"I think there has to be a commitment on the General

Assembly's part to be supportive of professional staff doing a professional job and not let them become a political football," says Andrews.

"There were a couple of principles we worked with right from the beginning," Petthel recalls. "One of the conditions I laid down was there would be no political interference with staff or the staff process. And the members of the General Assembly accepted that."

Whether by luck, design or the will of legislative leaders, JLARC seems never to have fallen under the cloud of partisanship that would have eroded its credibility. Democrats are the majority party in Virginia, and they hire JLARC staff. But Republican Delegate Vince Callahan says he's never seen any party politics in JLARC.

"When it comes to politics," Rosenthal notes, "the staff has to walk on eggshells. But in Virginia they know they've got to be responsive to the legislature. They've got to be professionally objective."

According to Director Leone, JLARC has become a problem-solver for legislators. "We come back with ways they can grapple with issues. We have a legislative and executive perspective. That's one of the impacts of this type of function being institutionalized, systemized, for a long time."

Good oversight agencies are much like a slaving, 100-pound Doberman, pulling against a tether held firmly by the legislature. Agencies, the executive branch and other government officials know the watchdog could be released at any time. It at least keeps them looking over their shoulders.

"The JLARC staff has been so competent, has maintained such high stan-



Virginia Delegates Vincent Callahan Jr. and Lacey Putney discuss a recent JLARC study. The two are charter members of the Virginia oversight commission, having served since its inception in 1973.

'An Arrow in the Quiver Against Ineffective Government'

While performance auditing and sunset review legislation swept the nation with the legislative reform movement of the 1970s, Wisconsin had already put the state auditor under the auspices of the Legislature in 1964 and added program auditing to his duties.

"When we do a typical program evaluation, we look at compliance issues," explains Dale Cattanaach, state auditor. "If we look at a university, for example, we ask, 'What did the legislature intend? Is the program delivering what the legislature intended?' We look at resources and accomplishments. And we ultimately look at the impact on the individual, the people the program was designed to serve.

"Unlike financial compliance that begins with basic accounting principles and standards, program evaluation may involve programs where standards don't exist. If agencies have not developed standards, criteria against which a program can be measured, the auditor must set standards. And sometimes that can become real controversial," he adds.

Cattanaach says there is no question that the threat of an audit acts as a deterrent to agency inefficiency. But who audits the auditors?

"We have a joint audit committee we report to. And the agencies that are audited sometimes challenge us. The documentation has to be sound. We go through these things with very careful procedures. We do it, in fact, in terms of facts that would stand up in court.

"In my view, our effectiveness is sort of preventive. It makes for voluntary compliance. These agencies are looking over their shoulders. They know they better do this or not do that because of the auditors. We don't have too many controversial reports because usually by the time the audit or report hits the street, the agency says, 'Mea

culpa, mea culpa, we'll comply.'"

Cattanaach, who took the state auditor's post in 1979, notes that he has been around state government longer than any member of the Legislature. The plus in his longevity is his institutional memory. "In some states," he adds, "the evaluation function is compromised by not having those buffers-institutional memory and institutional strengths."

Other ingredients for successful oversight, he says, include the interest and commitment of legislative leadership; resources, such as qualified staff, authority to demand access to records; and subject matter of sufficient statewide interest—"not just the narrow interest of one legislator or a headline for a day."

Even in Cattanaach's operation, reports may be shelved. But he's philosophical about it. "If a report rots on the shelf, it's terribly demoralizing to the staff. That happens when the subject is more important to the staff than the legislators, it's such a hot potato nobody wants to touch it, or the time is wrong. Timing is everything."

As an example of timing, the auditor remembers when Wisconsin joined the war on drugs. The auditors came in, reported some duplications among agencies and some programs that were ineffective. Legislators made a few changes at the time of the report because, Cattanaach notes, "Who was going to not join the war on drugs?"

"A year or two later, we'll look at the programs that duplicated efforts. We'll use the first audit as an initial inventory," he says.

Effective oversight is not a panacea for all problems, but Cattanaach says it can be an answer to high spending in government. And it can be "one arrow in the quiver against ineffective government."

the agencies work harder."

Leone admits that agency heads sometimes have a tendency to quiver a bit when JLARC comes around. "They sense your presence even if they are not

an agency you've been asked to do an audit on. They know you could be directed by the legislature at any time to review them." And Rosenthal adds, "I think knowing the legislature has the capability to thoroughly review performance and programs has instilled discipline in agencies."

The threat or promise of an accurate review helps cut costs, streamline bureaucracy and assists legislators in redefining programs, policies and assigning appropriations:


- JLARC's investigation of the state Department of Taxation resulted in recommendations that could increase state revenues by \$150 million biennially.
- Estimated savings from a JLARC review of the state Medicaid program—\$9 million to \$15 million; reduction in indigent care funds previously expended for out-of-state patients—\$2 million.

But it's hard to put a finger on the savings from good oversight. It's based on what would have been spent annually had a problem not been corrected, had a gap not been closed, had an abuse of the system not been stopped.

So there are other measures:

- The Eagleton Institute ranked JLARC as one of the best oversight groups in the country in 1983; the commission and the General Assembly were lauded for strong commitment to legislative oversight.
- The *Education Evaluation and Policy Analysis* journal cited JLARC as an exemplary model for legislative oversight in state governance of education.
- *Financial World* ranked Virginia as the best managed state; citing, among other factors, "unmatched" legislative and executive program evaluation.

"The commission members planted a seed in 1973, and allowed it to grow," Leone says. "And legislators nurtured it. Virginia has stuck with this for two decades. Legislators use us to really solve problems, not just write reports that sit on a shelf. From '73 on, there's been involvement. The constant has been the support of the legislature. And when they've built an institution over two decades, the legislature has a tremendous amount of faith in its performance."

"I think we've been reinventing government for a long time—maybe we should have gotten a patent on it," concludes Putney with a laugh. 

dards and their credibility and quality of their work is so high—I do think some state agencies did fear their coming in to do an audit. The threat is important," Quillen points out. "It makes